

1 Tanya M. Schierling [SBN 206984]
tschierling@swsslaw.com
2 Michael M. Vasseghi [SBN 210737]
mvasseghi@swsslaw.com
3 SOLOMON WARD SEIDENWURM & SMITH, LLP
401 B Street, Suite 1200
4 San Diego, California 92101
Telephone: (619) 231-0303
5 Facsimile: (619) 231-4755

6 Attorneys for Taylor's Industrial Services. LLC a/k/a
HPM Division
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 WELLTEC MACHINERY USA, INC., a
California corporation as assignee of
12 WELLTEC MACHINERY LIMITED a Hong
Kong registered Company,

13 Plaintiff,

14 v.

15 TAYLOR'S INDUSTRIAL SERVICES, LLC
16 a/k/a HPM DIVISION, and DOES 1
THROUGH 100,

17 Defendants.
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CASE NO. 08 CV 0877 BEN LSP

**DECLARATION OF CHRIS FILOS IN
SUPPORT OF DEFENDANT'S MOTION
TO DISMISS, OR IN THE ALTERNATIVE,
TRANSFER VENUE OR STAY
PROCEEDINGS PENDING ARBITRATION**

Date: June 30, 2008
Time 10:30 a.m.
Dept: Courtroom 3
Honorable Roger T. Benitez

Complaint Filed: January 28, 2008

1 I, Chris Filos, declare:

2 1. I am the President of Taylor's Industrial Services, LLC ("Taylor's"). I have
3 personal knowledge of each of the following facts, and if called as a witness, I would be
4 competent and willing to testify to such facts.

5 2. Taylor's was organized in December 2001 under the laws of the State of
6 Illinois. Currently, and since its inception, Taylor's has maintained its principal place of
7 business and headquarters in Mt. Gilead, Ohio. A true and correct copy of the printout
8 from the State of Illinois Secretary of State website concerning Taylor's corporate status is
9 lodged as Exhibit "2."

10 3. Taylor's has never conducted business in California, and is not registered or
11 qualified to do business in California.

12 4. Taylor's has never owned any manufacturing plants, distribution centers, or
13 retail stores in California. Taylor's has never maintained a bank account, an office, or any
14 employees in California. Taylor's has no customers in California, and does not advertise in
15 California. Taylor's does not own, use or possess any real property in California. Taylor's
16 has not designated an agent for service of process in California, and does not hold any type
17 of license issued in California.

18 5. I have substantial personal knowledge of the facts and circumstances
19 surrounding the Sole Distributorship Agreement (the "Agreement") which Taylor's signed
20 with Plaintiff Welltec Machinery Ltd. ("Welltec Ltd."). A true and correct copy of the
21 Agreement is lodged as Exhibit "1."

22 6. All negotiations by Taylor's leading up to the signing of the Agreement took
23 place in Ohio, and the Agreement was signed by me in Ohio. I was informed that Welltec
24 Ltd. signed the Agreement in Hong Kong. All of Taylor's activities amounting to
25 performance under the Agreement took place outside of California.

26 7. The machines that Taylor's purchased from Welltec Ltd. pursuant to the
27 Agreement were either delivered F.O.B. to Ohio, or they were picked up by Taylor's from
28 Welltec Ltd.'s facility in Hong Kong. Taylor's has never taken delivery of any machines or

1 any other goods or products pursuant to the Agreement in California. To the extent any of
2 the machines that Welltec Ltd. shipped to Taylor's may have passed through the port of
3 entry at Long Beach, California, en-route to Ohio, that port of entry was not selected by
4 Taylor's. Taylor's does not designate or keep track of which North American port
5 machines shipped from Welltec Ltd. enter the United States. All of the machines Taylor's
6 purchased from Welltec Ltd. have been sold to customers in Canada, not California, as
7 contemplated by the terms of the Agreement.

8 I declare under penalty of perjury under the laws of the United States of America and
9 the State of California that the foregoing is true and correct and that this declaration was
10 executed on May 22, 2008, at MT. Cileland OH

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13 CHRIS FILOS
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EXHIBIT 1: Sole Distributor Agreement

EXHIBIT 2: LLC File Detail Report

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SOLE DISTRIBUTORSHIP AGREEMENT

EFFECTIVE: 1st - August 2012

For the sole distributorship in

Between

WELLTEC MACHINERY LIMITED
 Tai Tung Industrial Building,
 29-33 Tsing Yi Road,
 Tsing Yi Island, N.T.,
 HONG KONG.

Hereinafter called Welltec

And

Taylor's Industrial Services, LLC
 HPM Division
 820 Marion Road
 Mt. Gilead, Ohio 43338
 U.S.A.

Hereinafter called TIS-HPM

1. In consideration of the obligation hereafter undertaken by, Welltec hereby appoints TIS-HPM as the distributor for its plastic injection molding machines and corresponding spare parts and accessories (hereinafter called Machines) and TIS-HPM hereby accepts this appointment for the territory of Canada (hereinafter called Territory). As used in this Agreement, Machine refers to the "G-Series" and "F-Series" machines.
2. Welltec will provide and supply, free of charge all commercial and technical literature in English and in electronic form where available, relating to Machines.
3. Welltec will set prices for Machines at the most competitive level and will be entitled to change its prices or discounts giving TIS-HPM at least sixty days prior notice of such changes to enable ongoing quotations to be concluded.
4. TIS-HPM will use its best endeavors and all reasonable and proper skills to promote and sell Machines within the Territory.
5. TIS-HPM shall neither directly nor indirectly be involved with sales and supply of any other new injection molding machines similar to and competitive with those supplied by Welltec except in the case when purchase for subsequent resale of a used machine from a customer is essential to the conclusion of an order for Machines from that customer. As used in this agreement similar or competitive machines refer to other hydraulic powered toggle type machines in the clamp size range up to and including 599 tons.

To: Your Grant (Rev 223)
 Mr. Wilson Day

(Fax no. 1-614-237-2978)

Mr. May Po, Hong Kong

(total: 8 pages)

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6. TIS-HPM, through its sales organization will periodically contact potential customers in the Territory which are prospective users for Machines and will provide Welltec a quarterly update on sales and potential sales.
7. TIS-HPM shall be entitled to purchase Machines from Welltec for resale to any parties within the Territory where installation and operation of such purchased Machines will take place.
8. TIS-HPM shall not quote any prices or sell any Machines to any parties outside its Territory unless approved by Welltec.
9. TIS-HPM shall provide Welltec its latest price information on Machines including price lists, discounts, payment terms etc. whenever available or requested by Welltec.
10. Welltec's standard terms of payment to TIS-HPM for sales within the Territory will be either of the followings:-
 - 100% of order value by irrevocable letter of credit at sight established with order
 - 20% of order value payable with order, rest 80% by irrevocable letter of credit at sight established 4 weeks prior to shipment date.
11. This agreement shall expire on 1 August 2003. Thereafter the agreement will be renewed automatically on a yearly basis unless one party shall give to the other notice for termination by one-month notice.
12. TIS-HPM shall at all times advise Welltec of any parts or designs of Machines that are unlikely to comply with the regulations of Territories and provide to Welltec whenever available the newest versions of such related regulations and technical standards in English or with English translations if possible.
13. Welltec shall at all times design, manufacture and supply its Machines of a good and merchantable quality fit for their respective use and purpose and all guarding and safety features of Machines will comply with the regulations of Territories. TIS-HPM has obligation to update Welltec with the latest regulations of Territories from time to time.
14. Welltec shall provide twelve months of warranty for all Machines sold to Territory which may become defective under normal working conditions or due to manufacturing defects, starting from the date of installation and commissioning of Machines, or 3 months after the shipment arrived any port in the continental United States whichever first occurred.

The warranty period in total of thirteen (13) months for the ten (10) machines in Ohio and the twelve (12) machines in Illinois, as of the date this agreement is executed, shall begin starting from the date of Machines' arrival at TIS-HPM in Ohio or starting after the execution of this agreement whichever comes last. And the warranty covers hydraulic and mechanical parts only.

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15. Welltec will either replace or repair any parts or components which may fail or become defective during the above mentioned warranty period, and TIS-HPM will be responsible to provide qualified labor to carry out any technical services for such replacement or repair work at its own expense. Welltec will support TIS-HPM with such specialist technical support and advice, as may be required from time to time, on electronic control systems, hydraulics and other equipment, which only Welltec can provide.
16. Any and all liabilities for personal injury shall be the sole responsibility of Welltec for any machine installed in Territory prior to the execution of this agreement, provided that those machines were not undergone any modification by customer itself or TIS-HPM.
17. Any and all liabilities for personnel injury resulting from occurrences on Machines installed in Territory subsequent to the execution of this agreement shall be the sole responsibility of Welltec, provided that the injury is caused by mal-function or machine defects, except where TIS-HPM has modified the Machine. Welltec understands that TIS-HPM plans to modify or add an electrical control system to Machine(s) installed after execution of this agreement. Any and all liabilities for personnel injury from occurrences on Machines resulting from the electrical control system added by TIS-HPM shall be the responsibility of TIS-HPM. Any and all liabilities not resulting from the addition of the electrical control system shall be the responsibility of Welltec.
18. The party responsible for liabilities from personnel injury occurrences, as defined above, shall indemnify, defend and hold harmless the other party. Both Welltec and TIS-HPM shall cooperate to the fullest extent possible in defending, at their own expense, the Machine in any liability action.
19. Welltec undertakes not to appoint any third party as agent, distributor without the consent of TIS-HPM or otherwise, for the purpose of marketing and selling Machines within the Territory.
20. Any dispute or claim arising out of this agreement shall be referred to and finally resolved by the International Chamber of Commerce in accordance with its Conciliation and Arbitration Rules. The venue of such arbitration shall be in Hong Kong.
21. Either party may terminate the agreement with immediate effect if the other party fails to meet its obligations by giving a written notice.
22. No amendment or variation of this agreement shall be effective to bind the parties hereto unless such amendment or variation shall have been put into writing and duly signed on behalf of both parties hereto.
23. Welltec shall provide to TIS-HPM the following information and documentation before or at the time of delivery of the Machines: (1) Assembly drawings; (2) Subassembly drawings; (3) Parts Lists; (4) Service Manuals, Parts Manuals, Operating Manuals; (5) Electrical and Hydraulic Schematics.

10-2-04

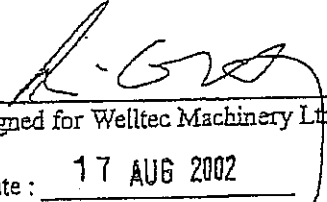
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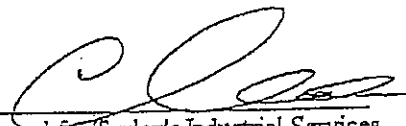
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24. Welltec and TIS-HPM shall work together to identify parts ("Spare Parts") which they believe will be required to support the Machines and Welltec shall provide those parts to TIS-HPM on consignment until those Spare Parts are sold.

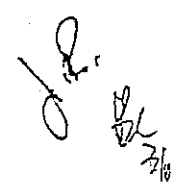
AS WITNESSED the signatures of the parties


Signed for Welltec Machinery Ltd
Date: 17 AUG 2002


Signed for Taylor's Industrial Services,
LLC HPM Division
Date: 8-7-02

** Supplement Attached **

J.R.
1/10/2008


J.R.
3/10

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Supplement to Sole Distributorship Agreement between Welltec & TIS-HPM

AA) For item 12

Should there be any changes in regulations and standard which leads to the modifications in machines features, the prices of machine shall be adjusted accordingly. Surely, the new prices have to be agreed by both parties.

BB) For item 14

For the twenty-two (22) sets machine, upon your confirmation of order and receipt of machines, we will issue a certificate to list down all details, such as the serial numbers and the warranty period of them to confirm the warranty term that Welltec to these machines.

CC) For item 15

For the claim cases of warranty parts, a service report on describing the problem details will be required for our study. And the defective parts shall be returned to us upon request for analysis purpose.

J.R.
11-1-06

h.

J.R.

3/10

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Supplement #2 to Sole Distributorship Agreement between Welltec & TIS-HPM

DD) For item 7

Machines purchased by TIS-HPM may be resold to any parties within the territory under
TIS-HPM's own trade name.

[SERVICES](#)[PROGRAMS](#)[PRESS](#)[PUBLICATIONS](#)[DEPARTMENTS](#)[CONTACT](#)

LLC FILE DETAIL REPORT

Entity Name	TAYLOR'S INDUSTRIAL SERVICES, L.L.C.	File Number	00518999
Status	NGS	On	02/01/2008
Entity Type	LLC	Type of LLC	Domestic
File Date	02/15/2001	Jurisdiction	IL
Agent Name	WILLIAM M. BIEDERMAN	Agent Change Date	02/15/2001
Agent Street Address	333 W WACKER DR STE 1800	Principal Office	820 W MARION RD MT GILEAD 43338
Agent City	CHICAGO	Management Type	MGR
Agent Zip	60606	Dissolution Date	PERPETUAL
Annual Report Filing Date	00/00/0000	For Year	2008
Series Name	NOT AUTHORIZED TO ESTABLISH SERIES		

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